

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2990

Mr. BINGAMAN. Madam President, I call up for consideration amendment No. 2990 dealing with U.S.-Mexico energy technology cooperation.

The PRESIDING OFFICER. The amendment is now pending.

Mr. BINGAMAN. Madam President, this amendment is one I offered on behalf of myself and Senator DOMENICI. It is an amendment that was adopted by the 106th Congress. It merely tries to ensure maximum possible cooperation between our two countries along our common border on issues related to health and energy production and to ensure that the Department of Energy environmental management technologies are used to help clean up serious and pressing public health problems along the border.

This is an amendment that I believe has strong support on all sides. I believe it has been cleared on both sides. I urge it be adopted.

Mr. MURKOWSKI. Madam President, we have agreed to it on our side, and I urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment? There being none, the question is on agreeing to amendment No. 2990.

The amendment (No. 2990) was agreed to.

Mr. BINGAMAN. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BINGAMAN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2989 TO AMENDMENT NO. 2917, AS FURTHER MODIFIED

Mr. BINGAMAN. Madam President, I ask for the regular order to return to the Feinstein amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BINGAMAN. Madam President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

FAIR ACT

Mr. THOMAS. Madam President, I rise to discuss an event that happened last week in which I was very disappointed. It was a hearing we had on the FAIR Act or private contracting of Government activities where it is appropriate under what is called the FAIR Act, which was passed in 1998.

This was to have been a committee hearing about how you can best do

what has been a policy for a very long time; that is, to take those activities within the Federal Government which are not integral to the Government and give the private sector a chance to bid and do those kinds of things.

Even though it has not been implemented as it could be and should be, it has been the policy for a very long time—20, 25 years—to do that, to take those things that are not specifically and inordinately Federal activities that could be done and could be done more efficiently by the private sector. So in 1998, we passed a bill called the FAIR Act which required that there be an analysis of all the Government activities in most of the agencies, determine which of those would be eligible for outside contracting, and then move forward on that.

I had hoped to testify before the committee. It turned out that I was not available, and also, they thought they had a balance. As I read about it—and I have a couple things I want to put in the CONGRESSIONAL RECORD—it turned out not to be a balanced hearing at all. It turned out to be kind of a pro-union rally in which they accidentally had to have it at a time when practically all the Government unions were meeting here. So they had about 250 members there, which is fine except they didn't have a balanced approach to the program.

I was advised that the hearing was going to be evenly balanced, and it couldn't have been more unbalanced, according to what was written about it. It was regarding the Government contracting. This is a very important issue to me for several reasons. One is, it is the most efficient way to get some of the jobs done that are available to be done in the Federal Government. The other is, I am one who thinks it is a good idea to reduce and hold down as low as possible the numbers in the Federal Government and allow the private sector to do all those jobs that can be done by the private sector. And that was the idea of the FAIR bill which was signed into law in 1998.

Again, it was designed to identify positions within the Federal agencies that are not inherently governmental. For about 50 years we have had a policy that said basically: It will not start or carry out any commercial activities to provide a service or product for its own use if such product or service can be procured from private enterprise through ordinary business channels.

That has been the notion that, in my view, has not been implemented nearly as it might be. Nevertheless, it is the concept, and it is a great concept. Unfortunately, this hearing indicated that several of the members who were there certainly don't want to find any ways—to generally quote them—that we would diminish the size of Government, that we would put at risk any Federal jobs. The fact is, this seldom puts at risk Federal jobs.

What it does is, as new jobs come up, new programs and projects come up

that are not inherently governmental. Then they can be put out to the private sector and, indeed, be competitive.

Conceptually, I certainly agree with this. I am surprised to find a number of members who were at the hearing who apparently do not agree with that and don't agree that the private sector ought to be able to compete at all with the Federal Government. They were very precise about that.

I do not agree with that. We were able to pass a bill with a number of hearings last year, Chairman THOMPSON and his committee. He was there, by the way, and said some pretty reasonable things about it. This was widely heard last year and passed very strongly.

It requires the Federal agencies to list commercial jobs. Inventories showed in 1999, kind of the initial inventory, that nearly 1 million Federal employees are engaged in commercial activities. These are services that can be found in the yellow pages from small businesses and firms throughout the country. Under the Clinton administration, the FAIR Act inventory served as no more than a list. Nothing was ever done about it. So last year, the Bush administration announced it was requiring all Federal agencies to convert 5 percent of the jobs listed in the FAIR Act as public and private competition or contract to the private sector.

In the course of the hearing, of course, the witnesses they had said the percentages were not necessarily the only percentages that could be considered. But the fact is, it did begin for the first time a planned effort to point out those kinds of jobs that could be in the private sector. I know this is fiercely denied and opposed by those who want more Government, who want to actually spend more and have larger Government. That is not really what this is all about.

The fact is, we do need to find a way to have an inventory, to find a way to have an opportunity for the private sector to look into those jobs—not all the jobs, of course, only those that are inherently not involved as governmental functions.

I hope we can go back to the core of what that bill is about. And that is the objective way, not putting at risk public employees but finding, as these jobs are created, that there is a place to be able to do that in the private sector.

I am hopeful we can continue to explore that, as, in fact, it is a law. Therefore, I would like very much to be able to pursue that. I want my friends on the committee to know I, for one, fiercely oppose the idea to gut the FAIR Act, and I want to make that point and continue to pursue it as time goes by.

COLONEL ROBERT S. HART

Mr. LOTT. Madam President, I would like to bring to your attention today the exemplary work and most commendable public service of one of our